

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRTIETH REGION

SEALRIGHT CO., INC.,

Milwaukee, Wisconsin

Employer

and

Case 30-RC-6068

GRAPHIC COMMUNICATIONS UNION
LOCAL 254M, AFL-CIO-CLC¹

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board (Board).

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this case.

¹Petitioner's name appears as amended at the hearing.

²The Employer filed a timely brief, which has been considered.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including but not limited to employees in the following departments: pre-forming, forming, warehouse, maintenance and quality control, employed by the Employer at its Pleasant Prairie, Wisconsin facility, but excluding all office clerical employees, customer service representatives, guards and supervisors as defined in the Act.

The Employer is engaged in the manufacture of rigid package material at its Pleasant Prairie, Wisconsin facility. There is no history of collective bargaining in the unit sought by Petitioner. There are about 124 employees in the bargaining unit.

The only issue in this case is the date of the election, all other details to the election having been agreed to. Both Petitioner and the Employer agreed that the election should be conducted on June 10 and 11, 1999. The Employer contends that holding the election a week earlier could potentially depress the number of voters because the week begins with the Memorial Day holiday on May 31, 1999. On January 1, 1999, the Employer implemented a program involving paid time off, and although the Employer has no experience under the program, it argues that the

likelihood of significant absences exists. According to the employer, a significant number of voters may request vacation time that week, and the election would not have a representative complement of eligible voters. In its brief, the Employer argues that the June 3 and 4 election dates "would prevent eligible employees from freely and fairly participating in the representation election." There is no independent record data to support this conjecture.³ The Union, seeking to avoid post-election objections, agrees that the date of the election should be June 10 and 11, 1999.⁴

The petition in this case was filed on December 29, 1998. Processing of the petition was blocked pending resolution of unfair labor practices in Case 30-CA-14533. Petitioner subsequently withdrew the charges, allowing the petition to be processed. Based on the significant delay already, and the speculative nature of the Employer's assertion that there may be a depressed voter turnout a week earlier than the parties are requesting, I shall, contrary to the parties, direct an election to be held in the unit set forth above on June 3 and 4, 1999.

DIRECTION OF ELECTION

³Citing the NLRB's Casehandling Manual, ¶ 11302.1, the Employer, in its brief, argues that the date selected should balance the desires of the parties, facilitate employee participation, and avoid days immediately preceding or following holidays. Due consideration has been given to these factors in deciding the issue in this case. The election is not scheduled on the day before or the day after the holiday, but is at the end of the week beginning with a three day holiday. Again, there is no evidence that a substantial, and representative complement of employees will not be eligible to vote on June 3 and 4.

⁴The parties stipulated that, due to the nature of scheduled work shifts, a two-day manual election is necessary and that the only two consecutive week days where all the employees would be scheduled to work are Thursday and Friday.

An election by secret ballot shall be conducted by the undersigned among employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Graphic Communications Union Local 254M, AFL-CIO, CLC.**

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have

access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 384 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994).

Accordingly, it is directed that within 7 days of the date of this Decision, the Employer shall file with the undersigned, **two** copies of an election eligibility list, containing the **full** names (including first and last names) and addresses of all the eligible voters, and upon receipt, the undersigned shall make the list available to all parties to the election. To speed preliminary checking and the voting process itself, it is requested that the names be alphabetized. **In order to be timely filed, such list must be received in the Regional Office, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 on or before May 14, 1999.** No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay this requirement.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin court, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **May 21, 1999.**

Signed at Milwaukee, Wisconsin this 7th day of May, 1999.

Stephen J. Sweet, Acting Regional Director
National Labor Relations Board
Thirtieth Region
Henry S. Reuss Federal Plaza
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